

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JUSTIN TYLER MCMILLAN,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

TINA MCMILLAN,

Respondent-Appellant.

UNPUBLISHED

May 22, 2007

No. 274524

Macomb Circuit Court

Family Division

LC No. 2005-059318-NA

Before: White, P.J., and Saad and Murray, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err in finding sufficient evidence to support the statutory grounds for termination. *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999); *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1993). Respondent's claims that she substantially complied with the parent/agency agreement, and that any failure to comply rests with the poor performance of the agency worker who failed to timely refer her for services, are not supported by the record. The record shows that, other than having a psychological evaluation and visitation with the child, respondent failed to substantially comply with any requirements of the parent/agency agreement, particularly in the requirements for a substance abuse assessment and random drug testing. A parent's failure to comply with the parent/agency agreement is evidence of a parent's failure to provide proper care and custody for the child. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003); *In re Trejo*, 462 Mich 341, 360-363; 612 NW2d 407 (2000).

Second, the trial court did not clearly err in finding that the child's best interests did not preclude termination of respondent's parental rights. MCR 712A.19b(5). *Trejo, supra* at 354-355. Although the eight-year-old child loved his mother, he had been out of her care for more than a year and did not trust her or feel safe with her. There was no evidence on the record that respondent would be able to provide the safety, structure, and security that the child needed and deserved.

Affirmed.

/s/ Helene N. White

/s/ Henry William Saad

/s/ Christopher M. Murray